

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROSARIO RAMOS OCHOA,

Petitioner,

Case No. 1:15-CV-1104

v.

HON. GORDON J. QUIST

ANTONIO VIEYRA SUAREZ,

Respondent.

**ORDER ADOPTING PARTIAL REPORT
AND RECOMMENDATION**

On December 21, 2015, the magistrate judge issued a Partial Report and Recommendation (R & R), in which the magistrate judge found that certain facts are not in dispute and noted that the only issues remaining for determination are whether return of the children to their habitual residence of Mexico would expose them to a grave risk of physical or psychological harm and whether the minor children are sufficiently mature that it is appropriate to take into account their views regarding return to Mexico. (R & R at 2–3, 10–11.)

Petitioner has filed an Objection to the R & R, and the Court has reviewed the R & R *de novo* in accordance with 28 U.S.C. § 636(b).

In her Objection, Petitioner contends that the Court should reject statements in the paragraph on pages 11-12 of the R & R suggesting that “serious abuse by [Petitioner],” lack of “abuse by Respondent,” that each child “had been threatened by the Petitioner and that is why they had not reported the alleged abuse to any adult in Mexico,” and “allegations of abuse” are established facts. Petitioner argues that such statements cannot be considered established facts, as the magistrate judge indicated in the conclusion to her R & R. Petitioner further argues that the conclusions and

allegations in that paragraph of the R & R are insufficient to establish the grave risk defense or the age and maturity exception.

Having reviewed the R & R in its entirety, the Court does not understand the magistrate judge's reference to the "above facts and law" as "established" to encompass facts pertaining to the grave risk of physical or psychological harm defense or the age and maturity exception. Rather, the magistrate judge merely suggests that a determination of those issues will require further development, including input from the guardian ad litem. In fact, an evidentiary hearing is now scheduled for February 4, 2016 to address the remaining issues identified in the R & R. Those issues have not been determined and await further development.

Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's Partial Report and Recommendation issued December 21, 2015 is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that Petitioner's Objection (dkt. # 30) is **OVERRULED**.

Dated: January 6, 2016

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE